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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/525,270	11/07/2005	Henrik Sundstrom	9563-27	4991
54414 7590 07/16/2009 MYERS BIGEL SIBLEY & SAJOVEC, P.A. P.O. BOX 37428 RALEIGH, NC 27627				
EXAMINER				
BUI, HANH THI MINH				
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2192				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/525,270

Applicant(s)

SUNDSTROM, HENRIK

Examiner

HANH T. BUI

Art Unit

2192

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 May 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date 6-24-2009
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Status of Claims

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on May 1st, 2009 has been entered.
2. Applicants' amendment May 1st, 2009 responding to the February 3rd, 2009 Final Office Action provided in the rejection of claims 1-16.
3. Claims 1, 7, and 16 have been amended.
4. Claims 1-16 are pending in the application, of which claims 1, 7 and 16 are in independent form, and which have been fully considered by the examiner.

Information Disclosure Statement

5. The information disclosure statements filed on June 24th, 2009 comply with the provisions of 37 CFR 1.97, 1.98. They have been placed in the application file and the information referred to therein has been considered as to the merits.

Claim Objections

6. Claims 1, 7, and 16 are objected to because of the following informalities:
 - a. Claim 1:

- Missing a colon (:) after *"the method including"* in line 2.
 - Line 5: ending of a limitation should be semicolon (;) instead of comma (,) as claimed.
 - Line 9: ending of a limitation should be semicolon (;) instead of comma (,) as claimed.
 - Line 11: ending of a limitation should be semicolon (;) instead of comma (,) as claimed.
 - Line 4: there is no antecedent basis for **"the** application type or file format".
- b. Claim 7:
- Line 4: The limitation **"a** coded file" should be **"the** coded file".
 - Line 5: there is no antecedent basis for **"the** application type or file format".
- c. Claim 16:
- Line 5: there is no antecedent basis for **"the** application type or file format".

Appropriate corrections are required.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 1-5, 7, 9, and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a. Claim 1 recites the limitation "*the file*" in lines 7, 10, 12. There is insufficient antecedent basis for this limitation in the claim. For compact prosecution, examiner treats "*the file*" such as -- the coded file --.

b. Claim 2 recites the limitation "*the file*" in line 3. There is insufficient antecedent basis for this limitation in the claim. For compact prosecution, examiner treats "*the file*" such as -- the coded file --.

c. Claim 3 recites the limitation "*the file*" in line 1. There is insufficient antecedent basis for this limitation in the claim. For compact prosecution, examiner treats "*the file*" such as -- the coded file --.

d. Claim 4 recites the limitation "*the file*" in line 1. There is insufficient antecedent basis for this limitation in the claim. For compact prosecution, examiner treats "*the file*" such as -- the coded file --.

e. Claim 5 recites the limitation "*the file*" in line 2. There is insufficient antecedent basis for this limitation in the claim. For compact prosecution, examiner treats "*the file*" such as -- the coded file --.

f. Claim 7 recites the limitation "*the file*" in lines 4, 10, and 11. There is insufficient antecedent basis for this limitation in the claim. For compact prosecution, examiner treats "*the file*" such as -- the coded file --.

g. Claim 9 recites the limitation "*the file*" in line 2. There is insufficient antecedent basis for this limitation in the claim. For compact prosecution, examiner treats "*the file*" such as -- the coded file --.

h. Claim 16 recites the limitation "*the file*" in lines 9, 11, and 13. There is insufficient antecedent basis for this limitation in the claim. For compact prosecution, examiner treats "*the file*" such as -- the coded file --.

Response to Arguments

9. Applicants' arguments filed on May 1st, 2009 with respect to claims 1-16 have been considered but are moot in view of the new ground(s) of rejection. See Takamine (Pub. No. 2003/0096581 – hereinafter, Takamine – art made of record) in view of Shimazaki et al. (Patent No. 7,380,093 – hereinafter, Shimazaki – art made of record) as noted in new rejection below.

Claim Rejections - 35 USC § 101

10. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

11. Claims 7-13 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter, specifically directed towards computer programs representing computer listings per se.

12. Claim 7 recites "*An electronic device ... comprising*

at least one file matching unit ... configured to receive ... to match ... to generate ... to associate ..."

as described in FIG. 3 and associated text, e.g., pg. 6: 38 - pg. 7: 9, thus such a "device" reasonably interpreted as computer programs, software, listing per se. Computer programs claimed as computer listings per se (without any hardware), i.e., the descriptions or expressions of the programs, are not physical "things." They are neither computer components nor statutory processes, as they are not "acts" being performed. Such claimed computer programs do not define any structural and functional interrelationships between the computer program and other components of a computer hardware that permit the computer program's functionality to be realized. (See MPEP 2106.01(I))

13. Claims 8-13 do not overcome the deficiency as noted above; therefore they are also rejected as non-statutory subject matter.

Claim Rejections - 35 USC § 103

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claims 8-9 and 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takamine (Pub. No. 2003/0096581 – hereinafter, Takamine) in view of Shimazaki et al. (Patent No. 7,380,093 – hereinafter, Shimazaki).

Regarding claim 1:

Takamine discloses *a method of determining usability of a coded file in an application, the method including:*

- *obtaining at least one property of the coded file, wherein the at least one property comprises properties other than the application type or file format including at least one of color depth, width of picture, height of picture and/or animation information,*

(FIGS. 1, 4, 5 and associated text, such as, "The attribute information 211 (**property**) is composed of the directory name storing the file name, the data size, **the number of pixels**, the file format (JPEG, GIF, or MPEG, for example) of the processing object data 212" (emphasis added – See par. [0034]).

"At **receiving** the extracting request and the specifying information 201, the extracting means 104 acquires all the **attribute information 211** stored in the storage means 101 (**obtaining at least one property**)" (emphasis added – See par. [0055]))

- *matching the property including at least one of color depth, width of picture, height of picture and/or animation against limitations of at least one application where the file could be used, wherein the application uses a certain application type of file but has limitations regarding the properties of the type of file,*

(FIG. 5 and associated text, such as, "the processing means 105 compares (**matching**) the number of dots of the output capability information 202 (**against**

limitations) and the **number of pixels** of the attribute information 211 (**property**)” (emphasis added – See par. [0063])).

But, Takamine does not explicitly teach

- *generating an indication indicating whether or not the file can be used in the application based on the matching, and associating the indication with the coded file for later enabling of a decision about use of the file in the application,*

However, Shimazaki discloses in FIG. 6 and associated text, such as, “**Flags indicate** the advantages and disadvantages ... When **a flag is set to ‘OK’**, ... **When the flag is set to ‘NG’**, the new files and existing files cannot be stored on the same disk drive 221 ... Rule number r#1 regulates the distribution policy in the case in which new file and existing file types are each ‘DB’. With this first rule, the RD area IDs for the new file and the existing file are **compared**, and when RD area IDs for both files **match**, storage of new and old files on the same disk drive 221 **is permitted**” (emphasis added – See Col. 11: 5-21).

It would have been obvious to one having ordinary skill in the art at the time of the invention was made to combine the teachings of Shimazaki into the teachings of Takamine because such combination would have provided a storage system which can allocate a suitable storage area, and a method for allocating storage area, in consideration of the physical relationship with existing other storage areas and the characteristics of data stored in a new storage area as suggested by Shimazaki (See Col. 2: 41-46).

Regarding claim 2:

Takamine and Shimazaki disclose *a method of claim 1, wherein the at least one property is more than one property and the more than one property is matched against each application.*

(Takamine further discloses in FIGS. 1, 5 and associated text, such as, "The attribute information 211 (**property**) is composed of the directory name storing the file name, **the data size, the number of pixels, the file format** (JPEG, GIF, or MPEG, for example) of the processing object data 212" (emphasis added – See par. [0034]).

"the processing means 105 compares (**matching**) the number of dots of the output capability information 202 (**against limitations**) and the **number of pixels** of the attribute information 211 (**property**)" (emphasis added – See par. [0063])).

- *generating a flag indicating that the file can be used if all matched properties of the coded file can be used in the application.*

(Shimazaki further discloses in FIG. 6 and associated text, such as, "**Flags indicate** the advantages and disadvantages ... When **a flag is set to 'OK'**, ... **When the flag is set to 'NG'**, the new files and existing files cannot be stored on the same disk drive 221 ... Rule number r#1 regulates the distribution policy in the case in which new file and existing file types are each 'DB'. With this first rule, the RD area IDs for the new file and the existing file are **compared**, and when RD area IDs for both files **match**, storage of new and old files on the same disk drive 221 **is permitted**" (emphasis added – See Col. 11: 5-21)).

Regarding claim 3:

Takamine and Shimazaki disclose *a method of claim 1, wherein the file is an image file.*

(Takamine further discloses in FIGS. 1, 5 and associated text, such as, "The attribute information 211 is composed of the directory name storing the file name, the data size, the number of pixels, the file format (**JPEG, GIF**, or MPEG, for example) of the processing object data 212" (emphasis added – See par. [0034])).

Regarding claim 4:

Takamine and Shimazaki disclose *a method according to claim 1, wherein the file is a sound file.*

(Takamine further discloses in FIGS. 1, 5 and associated text, such as, "The attribute information 211 is composed of the directory name storing the file name, the data size, the number of pixels, the file format (JPEG, GIF, or **MPEG**, for example) of the processing object data 212" (emphasis added – See par. [0034])).

Regarding claim 5:

Takamine and Shimazaki disclose *a method of claim 1, checking the indication before using the file in an application associated with the indication.*

(Shimazaki further discloses in FIG. 6 and associated text, such as, "**Flags** indicate the advantages and disadvantages ... When **a flag is set to 'OK'**, ... **When the flag is set to 'NG'**, the new files and existing files cannot be stored on the same

disk drive 221 ... Rule number **r#1** regulates the distribution policy in the case in which new file and existing file types are each `DB`. With this first rule, the RD area IDs for the new file and the existing file are **compared**, and when RD area IDs for both files **match**, storage of new and old files on the same disk drive 221 **is permitted**" (emphasis added – See Col. 11: 5-21)).

Regarding claim 6:

Takamine and Shimazaki disclose *a method according to claim 1, wherein the properties are obtained through decoding the code file.*

(Takamine further discloses in FIG. 1 and associated text, such as, "At **receiving** the extracting request and the specifying information 201, the extracting means 104 acquires all the **attribute information 211** stored in the storage means 101 (**obtaining at least one property**)" (emphasis added – See par. [0055])).

Regarding claim 7:

This is another electric device version of the rejected claim 1 above, wherein all the limitations of this claim have been noted in the rejection of claim 1

Regarding claim 8:

Takamine and Shimazaki disclose *a method according to claim 7, a file property extractor for obtaining the at least one property of the code file.*

(Takamine further discloses in FIG. 1 and associated text, such as, "At **receiving** the extracting request and the specifying information 201, the **extracting means 104** acquires all the **attribute information 211** stored in the storage means 101 (**obtaining at least one property**)" (emphasis added – See par. [0055])).

Regarding claim 9:

Takamine and Shimazaki disclose *a method according to claim 7, wherein the file property extractor is arranged to extract more than one property of the file and the file matching unit is arranged to match all extracted properties relevant to the application*".

(Takamine further discloses in FIGS. 1, 5 and associated text, such as, "At **receiving** the extracting request and the specifying information 201, the extracting means 104 acquires **all** the **attribute information 211** stored in the storage means 101 (**obtaining at least one property**)" (emphasis added – See par. [0055])).

"the processing means 105 compares (**matching**) the number of dots of the output capability information 202 (**against limitations**) and the **number of pixels** of the attribute information 211 (**property**)" (emphasis added – See par. [0063])).

Regarding claim 10:

Takamine and Shimazaki disclose *a method according to claim 7, wherein the file property extractor is arranged to store the property after extraction*.

(Takamine further discloses in FIG. 1 and associated text, such as, " The providing means can utilize **storage means** provided to the data processing control apparatus and for **storing** the processing object data, the **attribute information**" (emphasis added – See par. [0012]).

"In addition, the **storage means 101 stores** the processing object data 212 of the image or dynamic image data and **the attribute information 211** pertaining to the processing object data 212 correlating them with each other. The **attribute information 211** is composed of the directory name storing the file name, the data size, the number of pixels, the file format (JPEG, GIF, or MPEG, for example) of the processing object data 212, and the processing object data 212, as shown in FIG. 2(b)" (emphasis added – See par [0034])).

Regarding claim 11:

The rejection of base claim 7 is incorporated. All the limitations of this claim have been noted in the rejection of claim 8.

Regarding claim 12:

The rejection of base claim 7 is incorporated. All the limitations of this claim have been noted in the rejection of claim 5.

Regarding claim 13:

The rejection of base claim 7 is incorporated. All the limitations of this claim have been noted in the rejection of claim 2.

Regarding claim 14:

Takamine and Shimazaki disclose *an electronic device according to claim 7, wherein the device is a portable communication device.*

(Takamine further discloses "The portable terminal is a mobile phone, PDA (Personal Digital Assistance), and so on" (See par. [0004])).

Regarding claim 15:

Takamine and Shimazaki disclose *an electronic device according to claim 7, wherein the device is a cellular phone.*

(Takamine further discloses "The portable terminal is a mobile phone, PDA (Personal Digital Assistance), and so on" (See par. [0004])).

Regarding claim 16:

This is another computer program product version of the rejected claim 1 above, wherein all the limitations of this claim have been noted in the rejection of claim 1.

Conclusion

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh T. Bui whose telephone number is (571) 270-1976. The examiner can normally be reached on Mon. - Thur., 9:00AM - 4:30PM.
18. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Dam can be reached on (571) 272-3695. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.
19. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/H. T. B./
Examiner, Art Unit 2192
July 14, 2009

/Tuan Q. Dam/
Supervisory Patent Examiner, Art Unit 2192